

Brownfield Grant Guidelines Frequently Asked Questions (FAQ)

Q. What is the grant application process in Fiscal Year 2003?

A. The process for applying for assessment, revolving loan fund and cleanup grants is a two step process as discussed in the new guidelines (<http://www.epa.gov/brownfields/applicat.htm#pg>). The one step process of applying for the job training program are discussed in a separate set of guidelines for the job training program (<http://www.epa.gov/brownfields/applicat.htm#jt>) .

EPA has prepared guidelines on a combined application process for three types of grants, assessment, revolving loan fund and cleanup. Initial proposals in a single application for assessment, revolving loan fund and cleanup grants must be sent to EPA Regions (with a copy to EPA HQ) postmarked no later than December 16, 2002.

EPA Regions will review and evaluate initial proposals. Applicants who are invited by EPA to submit final proposals, the second step in the two-part proposal process, will be notified in February 2003. Final proposals for assessment, revolving loan fund and cleanup grants must be sent to EPA Regions (with a copy to EPA HQ) postmarked no later than March 14, 2003.

Applicants are encouraged to contact their EPA Regional Brownfields Coordinator for assistance in preparing initial proposals. A list of EPA Regional Brownfield Coordinators and their mailing addresses is attached (<http://www.epa.gov/brownfields/corcntct.htm>). Due to the highly competitive process, applicants should be aware that receiving assistance and advice prior to submission of the initial or final application does not guarantee selection.

Q. How do I get help in understanding and responding to the new grant guidelines?

A. Applicants may wish to review information on the EPA brownfields website and to contact their EPA Regional Brownfields Coordinator to request assistance when applying for a grant under the new Brownfields amendment (<http://www.epa.gov/brownfields/corcntct.htm>).

All applications will be reviewed and evaluated objectively against the criteria in the grant guidelines and ranked against other applications. Due to the highly competitive process, applicants should be aware that receiving assistance and advice prior to submission of the Initial or Final application does not guarantee selection.

Q. Who is eligible to apply for the grants?

A. The new Brownfields amendments define entities eligible to receive grants. These include:

- Governmental entities eligible to apply for and receive assessment grants including state, local and tribal governments, with the exception of Indian tribes in Alaska, as well as a range of government entities, including a general purpose unit of local government or land clearance authority or other quasi-governmental entity operating under the control, supervision or as an agent of a local government, a governmental entity or redevelopment agency created or sanctioned by a State, or a regional council of governments. An Alaska Native Regional Corporation and an Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act and the Metlakatla Indian community are eligible.
- Governmental entities eligible to apply for and receive revolving loan fund grants including state, local and tribal governments, with the exception of Indian tribes in Alaska, as well as a range of government entities including a general purpose unit of local government or a land clearance authority or other quasi-governmental entity operating under the control, supervision or as an agent of a local government, a governmental entity or redevelopment agency created or sanctioned by a State, or a regional council of governments. An Alaska Native Regional Corporation and an Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act and the Metlakatla Indian community are eligible.
- Entities eligible to apply for and receive cleanup grants include those eligible governmental entities identified above as well as nonprofit organizations, including nonprofit educational institutions. All eligible entities, including nonprofit organizations, must own the site they wish to cleanup.
- Entities eligible to apply for and receive job training grants include those eligible governmental entities identified above as well as nonprofit organizations, including nonprofit educational institutions.

Q. How much money is available through individual grants?

A. Under the new Brownfields law, an eligible entity may apply for:

- up to \$200,000 to assess sites contaminated by hazardous substances, pollutants or contaminants **and** up to \$200,000 to assess sites contaminated by petroleum;
- if the applicant seeks a waiver (for a particular site) based on anticipated level of contamination, size and ownership status of the site, up to \$350,000 to assess sites contaminated by hazardous substances, pollutants or contaminants **and** up to \$350,000 to assess sites contaminated by petroleum;
- up to \$1 million for an initial revolving loan fund (RLF) grant. A coalition of eligible entities may apply together under one recipient for up to \$1 million per eligible entity;
- up to \$200,000 per site for cleanup grants at up to five (5) sites per eligible applicant; and,
- up to \$200,000 for job training grants that address skills related to the assessment and cleanup of brownfields sites.

The project period for the grants is up to two years for assessment, cleanup and job training grants and up to five years for RLF. Contact your EPA Regional Brownfields Coordinator for additional information (<http://www.epa.gov/brownfields/corentet.htm>). However, actual funding is dependent upon the availability of funds through the Federal budget process.

Q. What is a Brownfields?

A. For the purposes of EPA's Brownfields grant program, A "Brownfields Site" is:

"...real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant."

Brownfields include three specific types of properties eligible for funding:

- sites contaminated by petroleum or a petroleum product;
- sites contaminated by controlled substances; and,
- mine-scarred lands.

For a more detailed discussion of Brownfields sites eligible for funding, please refer to Appendix 3 of the Guidelines. (<http://www.epa.gov/brownfields/html-doc/10902a3.htm>)

Q. How do I know if I need to apply for a property-specific funding determination?

A. Certain types of sites are excluded from funding, unless EPA determines that the site would be eligible for a property-specific funding determination.

The property-specific funding determination is based on whether the grant will protect human health and the environment, **and** either promote economic development or enable the creation, preservation or addition of parks, green ways, undeveloped property, recreational property, or other property used for nonprofit purposes.

Applicants should review the list of sites eligible for a property-specific determination in Appendix 4 of the Guidelines (<http://www.epa.gov/brownfields/html-doc/10902a4.htm>) and contact your EPA Regional Brownfields Coordinator if you have further questions regarding property-specific funding determinations.

Q. How do I demonstrate to EPA that my petroleum contaminated site is eligible for grant funding?

A. One approach for addressing petroleum site eligibility in a grant proposal would be to contact a state petroleum program official (link to ASTSWMO website for identified state petroleum program contacts -[http://www.astswmo.org/committees.htm#Tank Subcommittee and Task Forces/](http://www.astswmo.org/committees.htm#Tank%20Subcommittee%20and%20Task%20Forces/)) and discuss the following:

- 1) whether the state believes the site to be of “relatively low risk” as compared with other petroleum-only sites in the state;
- 2) whether the state believes there is no “viable responsible party” for the site; and
- 3) whether the state believes that the person assessing, investigating, or cleaning up the site is a person who is not potentially liable for cleaning up the site.

In your grant proposal, if you receive a determination from the state that the site is of low risk, that there is no viable responsible party, and the person assessing, investigating, or cleaning up the site is a person that is not potentially liable for cleaning up the site, you should identify the state petroleum program official you contacted, the state official’s telephone number, the date of the contact, and a summary of your discussion to reach the determination that your site is “relatively low risk” and that there is “no viable responsible party.” You should include this information and any documentation provided to you by the state in the section of the grant proposal that requests a description of the site (see page 18, 22, and 25 of the “Proposal Guidelines for Assessment, Revolving Loan Fund and Cleanup Grants,” EPA-500-F-02-142, October 2002).

EPA will make determinations as to site eligibility for sites located on Indian tribal lands.

EPA may seek further clarification of your response, if needed during the selection review process.

NOTE: If your application does not identify specific sites, and you are awarded a grant for petroleum activities, a term and condition will be included in your cooperative agreement which will define a process for obtaining necessary determinations.

Q. Does an entity applying for a petroleum brownfields grant (assessment, revolving loan fund or cleanup grant) need approval from the State before submitting the proposal to EPA?

A No. Proposals for petroleum brownfields grants do not require approval from a State. All applicants for brownfields grants must supply a letter acknowledging that a State or Tribal environmental authority is aware of the application. Unlike the UST field pilot grants, which were limited to proposals from states, the new brownfields grants may be made to the following eligible entities:

- A general purpose unit of local government
- A land clearance authority or other quasi-governmental entity that operates under the supervision and control of, or as an agent of, a general purpose unit of local government
- A governmental entity created by the State legislature;
- A regional council or group of general purpose units of local government
- A redevelopment agency that is chartered or otherwise sanctioned by a State
- A State
- An Indian Tribe other than in Alaska
- An Alaska Native Regional Corporation and an Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following) and the Metlakatla Indian community.

However, applicants submitting proposals that address petroleum brownfields sites are encouraged to contact state officials to ensure sites are eligible for grant funding.

Q. What sites are not eligible for Brownfields grant funding?

A. Under the Brownfields amendments, three types of sites are not eligible for brownfields grant funds because they are not eligible for property-specific determinations:

- a facility that is listed on the National Priority List (NPL) or is proposed for listing;
- a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties under CERCLA; and,
- a facility that is subject to the jurisdiction, custody or control of a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe.

Q. Are properties on lands held in trust by the Federal government for Indian tribes eligible for brownfields grant funding?

A. Generally properties on lands held in trust by the Federal government for Indian tribes are eligible for brownfields grant funding. You should contact your Brownfields coordinator for further information.

Q. Are RCRA sites eligible for Brownfields grant funding?

A. Some RCRA sites may be eligible. RCRA facilities that may be eligible for Brownfields funding, (subject to meeting all other Brownfields grant eligibility requirements), include:

- RCRA interim status facilities that are not subject to any administrative or judicial order or consent decree;
- RCRA interim status facilities that are subject to administrative or judicial orders or consent decrees that do not include corrective action requirements or any other cleanup provisions (e.g., RCRA section 3008(a) orders without provisions requiring the owner/operator to address contamination); and
- Parcels of RCRA facilities that are not under the scope of a RCRA permit or administrative or judicial order to conduct corrective action.

In addition, the following RCRA facilities identified in § 101(39)(B) may be eligible for property specific Brownfields grant funding determined by EPA.

Without a property specific determination provided for in §101(39)(C), these specified RCRA facilities can not receive grant or loan funding. When making this determination, EPA assesses if Brownfields funding for assessment or cleanup activities will:

- ensure protection of human health and the environment; **and** either
- promote economic development, or
- promote the creation, preservation, or addition to parks, green ways, undeveloped facility, other recreational facility, or other facility used for nonprofit purposes.

Q. How does EPA interpret “nonprofit organization” and how can such organizations participate in brownfields revitalization under the new amendments?

A. For the purposes of the brownfields grant program, EPA will use the definition of nonprofit organizations contained in Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999, Public Law 106-107.

This law defines non-profit organizations to mean “any corporation, trust, association, cooperative, or other organization that--

- (A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (B) is not organized primarily for profit; and
- (C) uses net proceeds to maintain, improve, or expand the operations of the organization.

Nonprofit organizations, with the exception of organizations subject to section 501(c)(4) of the Internal Revenue Code that lobby, are eligible to receive cleanup grants and subgrants under Revolving Loan funds capitalization grants.

Nonprofit organizations are also eligible to receive job training grants. See the [Proposal Guidelines for Brownfields Job Training Grants](#) for further information.

Non-profit organizations are not eligible to receive brownfields assessment or RLF grants under 104(k)(3).

Q. Do I have to ‘own’ the site, when I apply for a Cleanup grant or an RLF subgrant?

A. No. By statute, cleanup grant recipients and revolving loan fund subgrant recipients must own these sites at the time of grant or subgrant award. The ownership requirement can be met through fee simple title. Other arrangements may be considered on a case-by-case basis. For example, applicants that do not yet “own” the site, may apply if there is an irrevocable agreement to sell or donate the land to the applicant prior to award of the grant, or if the applicant receives the grant.

Q. What does an existing revolving loan fund (RLF) pilot do to “transition” under the new amendments?

A. A Revolving Loan Fund (RLF) established prior to January 11, 2002 may “transition” to the new RLF program. The EPA has published guidelines on how to transition that can be found on the EPA website (<http://www.epa.gov/brownfields/html-doc/bcrlf-0.htm>). These will be distributed to all the current BCRLF pilots and the EPA Regions. The transition process will be managed through EPA Regional offices. Existing BCRLF pilots that choose to transition are encouraged to do so between January and June 2003. In subsequent years, BCRLF pilots may choose to transition during an ‘open season’ that will be announced by EPA.

Q. Who can apply for RLF supplemental funds under the new amendments, and how do they apply?

A. Only RLF recipients awarded grants under the new Brownfields law, and existing BCRLF pilots who “transition” to the new program, can apply for non-competitive supplemental funding. The EPA will consider supplemental funding based on the following statutory considerations:

- the number of sites and the number of communities addressed;
- the demand for funding by eligible entities that have not previously received a grant under the new amendments;
- the demonstrated ability of the eligible entity to use the revolving loan fund (RLF) to enhance remediation and provide funds on a continuing basis; and,
- such other factors as the Agency considers appropriate to carry out the RLF.

RLF recipients interested in non-competitive supplemental funding must apply through their EPA Regional office. You should contact your Regional Brownfields coordinator for details. Funding selection will be made by the EPA on a “rolling basis” to the extent funds are available. Supplemental funding will be based on the availability of funds.

Q. Can I apply for assessment supplemental funds on a non-competitive basis under the new amendments?

A. No. There are no provisions for supplemental funding for brownfields assessment grants. However, existing assessment grant recipients can compete for new grants.

Q. As an RLF grant recipient, will intra-governmental loans (i.e. loans between parts of the same governmental entity) be allowed under the new amendments?

A. Yes. RLF recipients may make intra-governmental loans under the new amendments.

Q. As an RLF recipient, will intra-governmental cleanup subgrants be allowed under the new amendments?

A. No. Cleanup subgrants, unlike loans, may not be made by the RLF recipients within the same governmental entity that receives the RLF grant (e.g. one department of a city government “subgrants” to another department of the same governmental entity). However, RLF recipients may choose to apply separately for a cleanup grant.

Q. Do applicants for brownfields grants (assessment, revolving loan fund or cleanup grant) need to inform their State regarding the submission of a grant proposal to EPA?

A. Yes. Applicants (other than a State or tribal environmental authority) are required to provide a letter from a State or Tribal environmental authority that acknowledges the applicant’s planned activities in their initial grant proposal.

Only one letter reflecting all proposed activities is needed if the applicant applies for multiple grant activities.

Q. Are facilities with permits issued under environmental statutes or regulations excluded from eligibility for brownfields funding?

A. Facilities with permits issued under the authorities of the Resource Conservation and Recovery Act (RCRA), Toxic Substances and Control Act (TSCA), and the Safe Drinking Water Act (SDWA), as well as facilities with permits issued under section 1321 of the Clean Water Act (the oil and hazardous substance liability provisions) are excluded from the definition of a brownfield, however they may be eligible for funding if EPA makes a property-specific funding determination, as provided in the Brownfields amendments. Therefore, in order to be eligible, when applying for funding for these sites, you must provide documentation that such funding will protect human health and the environment **and**, either 1) promote economic development or 2) enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.

Q. Can brownfields grant funds be used to assess or clean up sites contaminated with PCBs?

A. EPA's preliminary view is that ALL portions of properties potentially contaminated with PCBs may be eligible for brownfields site assessment, cleanup and revolving loan fund grants (without a property-specific determination), except where EPA has initiated an involuntary action to address PCB contamination at the facility or a portion of a facility.

Any facility, or portion of a facility, that is the subject of an EPA-initiated involuntary action to address PCB contamination may be eligible for funding if EPA makes a property-specific funding determination. Therefore, eligible entities, when applying for funding for these sites must provide documentation that such funding will protect human health and the environment **and**, either 1) promote economic development or 2) enable the creation of, preservation of, or addition to parks, green ways, undeveloped property, other recreational property, or other property used for nonprofit purposes.

Q. Do tribes "own" tribal trust lands for purposes of a brownfields cleanup grants and RLF cleanup subgrants?

A. Generally, EPA believes tribes have a sufficient ownership interest in tribal trust lands to "own" such lands for purposes of brownfields cleanup grants and RLF cleanup subgrants. Applicants should contact their Regional Brownfields coordinator for additional information.

Q. Are tribes considered "potentially responsible parties" (PRPs) and therefore subject to the statutory prohibition on using grants funds to pay for response costs at a site for which the recipient is potentially liable under CERCLA § 107?

A. Generally, EPA has not considered tribes to be liable as PRPs under CERCLA and, therefore, they are not subject to the statutory prohibition. Applicants should contact their Regional Brownfields coordinator for additional information.

Q. Can I use brownfields grant funds to purchase environmental insurance?

A. Yes. Applicants that receive grants or loans to perform characterization, assessment or cleanup of a brownfields site may use brownfields grant or loan funds to purchase environmental insurance. Purchases must be consistent with the applicable OMB Cost Circular and the administrative cost prohibition.

Q. As a local government applicant, what program activities can be funded under the 10% provision of the new amendments?

A. Under new section 104(k)(4)(C) of CERCLA, a 'local government may use not to exceed 10 percent of the grant funds to develop and implement a brownfields program. These activities may include:

- A. "monitoring the health of populations exposed to one or more hazardous substances from a brownfields site" which may include
 - evaluation of the environmental public health hazards associated with properties;
 - collection of baseline community health information, including the identification of sensitive and exposed populations;
 - collection and integration of community health concerns into decision-making during assessment and/or cleanup;
 - education and notification of community, health risk communication and education related to redevelopment; or,
- B. "monitoring and enforcement of any institutional controls used to prevent human exposure to any hazardous substance from a brownfields site" which may include:
 - engineering or physical controls such as caps and fencing;
 - governmental controls such as zoning and permitting; and,

- private controls such as covenants, easements and servitude.

Local government entities are encouraged to work with their state and local public health, state or tribal environmental authority, planning and other agencies in the development of the application under this provision.

Q. Are former military installations that have been closed and subsequently turned over to local and/or state governments or non-profit organizations eligible for funding under the FY03 guidelines?

A. Generally, former military installations that are no longer owned or under the custody of the U.S. government, including properties that have been closed and subsequently turned over to governments or nonprofit organization may be eligible for brownfields funding. **For example, the following types of facilities may be eligible for brownfields funding:**

1. Privately-owned, Formerly Used Defense Sites (FUDS)
2. Privately-owned, Formerly Utilized Sites Remedial Action Program (FUSRAP) properties.
3. Other former federal properties that have been disposed of by the U.S. government.

Facilities owned by, or under the custody or control of the federal government **are not eligible** for brownfields funding.

Applicants should contact their Regional Brownfields coordinator for additional information.

Q. What is meant by community notification?

A. Community notification has been an important facet of the brownfields program since its inception. This remains an important element under the new amendments.

The grant guidelines require applicants to describe how the community was notified of the preparation and submission of the proposal. Some examples of community notification include:

- discussing a brownfields proposal during a government meeting;

- holding a public meeting;
- placing a public notice in a local newspaper or community bulletin board; or
- notifying affected residents door-to-door.

Applicants may describe other methods used to notify the community.

Q. What happens if I accidentally include an ineligible site in my application or I didn't realize I needed a property-specific funding determination?

A. EPA may provide applicants a limited opportunity to clarify site eligibility issues during the Initial proposal application process. If EPA has reason to believe a site that falls in the "excluded" category is eligible for a property-specific funding determination, EPA may seek clarification. EPA strongly encourages applicants to evaluate their site against the information provided in Appendix 3 of the guidelines. In addition, applicants should contact their Regional Brownfields Coordinators for pre-application assistance on site eligibility.